

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
AT CHATTANOOGA**

American College of Pediatricians, *et al.*,

Plaintiffs,

v.

Xavier Becerra, in his official capacity as  
Secretary of the United States Department  
of Health and Human Services, *et al.*,

Defendants.

Case No. 1:21-cv-195-TAV-SKL

**DEFENDANTS' MOTION TO DENY AS PREMATURE  
OR STAY PLAINTIFFS' EARLY MOTION FOR SUMMARY JUDGMENT**

Defendants hereby move this Court to deny as premature Plaintiffs' Motion for Partial Summary Judgment, ECF No. 27 (Jan. 7, 2021), or, in the alternative, to stay that motion until after resolution of Defendants' anticipated motion to dismiss. For the reasons set forth more fully in Defendants' accompanying Memorandum, denial or a stay of that motion for early summary judgment is appropriate. For these reasons, Defendants respectfully request that the Court grant this motion and enter an Order denying Plaintiffs' motion as premature or, in the alternative, enter an Order staying Plaintiffs' motion until after resolution of Defendants' anticipated motion to dismiss.

Dated: January 14, 2022

Respectfully submitted,

BRIAN M. BOYNTON  
Acting Assistant Attorney General

MICHELLE R. BENNETT  
Assistant Branch Director

/s/ Jordan L. Von Bokern

JORDAN L. VON BOKERN (D.C. Bar No. 1032962)

Trial Attorney

Civil Division, Federal Programs Branch

U.S. Department of Justice

1100 L St. NW

Washington, DC 20005

Phone: (202) 305-7919

Fax: (202) 616-8460

E-mail: [Jordan.L.Von.Bokern2@usdoj.gov](mailto:Jordan.L.Von.Bokern2@usdoj.gov)

*Counsel for Defendants*